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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/080,140 05/15/98 BILLING-MEDEL

P 6105.US.P1

023492
ABBOTT LABORATORIES
DEPT. 377 - AP6D-2
100 ABBOTT PARK ROAD
ABBOTT PARK IL 60064-6050

HM12/1107

EXAMINER

CANELLA, K

ART UNIT

PAPER NUMBER

1642

DATE MAILED:

11/07/01

23

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/080,140

Applicant(s)

Billing-Medel et al

Examiner

Karen Canella

Art Unit

1642



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 months MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 74-95 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 83 is/are allowed.
- 6) ☒ Claim(s) 74-82 and 84-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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Response to Amendment

1. Claims 45-73 have been canceled. Claims 74-95 have been added and are under consideration.
2. The finality of the Office action of Paper No. 19 has been withdrawn.

New Grounds of Rejection

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 74-82 and 84-95 and are rejected under 35 U.S.C. 102(e) as being anticipated by Au-Young et al (US 5,856,136).

Claims 74-81 and 84-93 are drawn in part to purified polynucleotides comprising SEQ ID NO:4, 5 and 6, vectors, kits thereof. Au-Young et al disclose purified polynucleotides comprising SEQ ID NO: 4, 5 and 6, vectors, and kits thereof. Au-Young et al disclose Sequence 4 (nucleotides 1-207 and nucleotides 102-366) comprising the instant SEQ ID NO:4 and 5, respectively. Au-Young et al disclose Sequence 24 which is identical to the instant SEQ ID NO:6.

Claims 82 and 95 are drawn to the polynucleotide encoding SEQ ID NO:25. Claim 94 is are drawn to purified polynucleotides encoding SEQ ID NO:25, 26, 27, 28, 29 and degenerate coding sequences thereof. Au-Young et al disclose Sequence 4 (nucleotides 7-375 and 214-303, respectively) which encodes the instant SEQ ID NO:25 and the instant SEQ ID NO:28; Sequence 25 (nucleotides 60-161) which encodes the instant SEQ ID NO:26; Sequence 23

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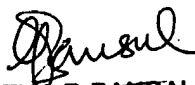
(nucleotides 160-282) which encodes the instant SEQ ID NO:27; and Sequence 26 (nucleotides 14-76) which encodes the instant SEQ ID NO:29.

5. Claims 74-81, 84-93, are rejected under 35 U.S.C. 102(e) as being anticipated by Reiter et al (US 6,267,960). Claims 74-81 are drawn in part to purified polynucleotides comprising SEQ ID NO:3, 4 and 5, vectors, kits thereof. Reiter et al disclose the purified polynucleotides of Sequence 1, vectors and kits thereof. Reiter et al disclose the polynucleotide comprising the instant SEQ ID NO:3 as residues 10-288 of Sequence 1, SEQ ID NO:4 as residues 12-218 of Sequence 1, and SEQ ID NO:5 as residues 113-377 of Sequence 1.

6. All other rejections and objections as stated in Paper No. 19 are withdrawn.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Canella whose telephone number is (703) 308-8362. The examiner can normally be reached on Monday through Friday from 8:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on (703) 308-3995. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.


GEETHA P. BANSAL
PRIMARY EXAMINER

Karen A. Canella, Ph.D.

Patent Examiner, Group 1642

October 24, 2001